THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.11602 OF 2005

Dated: 02-01-2006

Between

G.V. Subba Reddy, S/o. Koti Reddy,

R/o. Brahmanakraka Village,

Jaladanki Mandal, Nellore District.

...PETITIONER

AND

The Senior Divisional Retail Sales

Manager, Indian Oil Corporation

Limited, G.V.R. Towers, 3rd Floor,

Bharathinagar, Ring Road,

Vijayawada and another.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the first respondent in selecting the second respondent for establishment of Kisan Seva Kendra at Brahmanakraka Village, Jaladanki Mandal, Nellore District as illegal and arbitrary and to direct the first respondent to consider his case and other applications afresh after giving reasonable opportunity to the concerned.

Learned counsel for the petitioner submits that the Indian Oil Corporation (IOC) – first respondent published a notification on 28.03.2005 for setting up 'Kisan Seva Kendra' (KSK) at twenty places in various Revenue Districts of Andhra Pradesh. The petitioner's village is at Sl.No.10 in the said notification calling for the application from the open category. The eligibility criterion for the operatorship has also been published but there is no column in the said notification specifying to furnish the financial status of the candidate/applicant. Therefore, the petitioner filed his application fulfilling the eligibility criteria published in the notification such as producing nativity certificate, educational qualification certificate etc. and as there was no requirement to furnish any financial status the petitioner has not furnished the same. The learned counsel further submits that the first respondent considered the application of the second respondent as the second respondent furnished his financial status, for which certain marks have been awarded, as a result of which the second respondent was selected. He further submits that without there being any condition or eligibility criteria published in the notification with regard to the financial status the first respondent considered the case of the second respondent only on the basis of his furnishing the financial status, which is illegal and unreasonable.

I have perused the relevant records produced by the learned counsel appearing for the first respondent. Though notice was served, none appears for the second respondent. The petitioner filed his application in the format earmarked for the retail outlet dealers.

It is stated that at the time of the issuance of the notification no format as such was prescribed for KSKs and therefore, the applications filed, pursuant to the notification, in any format have been considered. I have perused the application filed by the petitioner. Petitioner chose to file his application in the format prescribed for the retail outlet dealers, wherein he has furnished the details in all the columns but the relevant columns 18 and 19 relating to the financial status, particulars of the FDRs, etc. have been kept blank. Petitioner also filed copies of the documents relating to immovable properties. Insofar as the second respondent is concerned he chose his own format for KSK dealership and furnished the required particulars of nativity certificate, educational qualification certificates etc. apart from the particulars relating to the financial status; wherein he furnished the bank accounts, FDRs etc.

Learned counsel for the petitioner submits that the first respondent ought not have considered the criteria relating to the financial status as there was no such eligibility criteria

prescribed in the notification. However, there is no dispute with regard to heads relating to education, residence, movable property etc. Petitioner was also awarded certain marks but the only contest was with regard to the financial status. Admittedly the petitioner has not furnished any information with regard to the financial status and whereas the second respondent has submitted particulars about the financial status.

Learned counsel appearing for the first respondent submits that, in fact, a general notification issued with regard to the eligibility criteria goes to show that every person has to file the documents relating to caste, residential certificate issued by the competent authority, proof of age, proof of educational certificate, medical certificate, affidavit and also there is specific item showing that if the selected candidates belong to SC or ST category, the IOC shall make provision for facilities of underground storage tank, required number of used barrels, mechanical dispensing pumps, generator, air compressor, emblem pole, electrification, motorable driveway, sales kiosk apart from that IOC will provide an adequate working capital for full operational cycle for operation of the dealership. Both the working capital loan as well as 11% per annum interest thereon will be recovered from them from the 13th month of commissioning of dealership. Reading of the said eligibility criteria indirectly indicates that every person other than SC and ST has to fulfill the financial status as required by IOC. Admittedly, no format is prescribed for the KSK dealership.

It is stated in the counter that the brochure for selection of retail outlet dealers, issued by the IOC, available to the candidates at a nominal cost, clearly specifies the requirement of the candidates demonstrating their financial capability by producing relevant documents. In fact, the IOC issued a General Notification in the newspapers during November 2004 i.e. prior to the notification dated 28.03.2005, with regard to the transparency in the selection of retail outlet dealers. In fact, the petitioner having filed the prescribed application for the retail outlet dealers wherein the criteria with regard to the financial capability is indicated, left the said column blank without furnishing any particulars and therefore, no marks were given to the petitioner under the head of assessment of financial capability.

It is further stated that the eligibility criteria in the notification giving certain concessions to the candidates belonging to SC or ST category itself indicates that candidates applying for open category are required to furnish their financial capability.

Having regard to the facts and circumstances of the case,

this Court is of the opinion that petitioner having chose to file his application in the prescribed format for retail outlet dealer, wherein the specific column relating to financial capability is required to be mentioned, failed to fulfill the said requirement or furnish any documents demonstrating his financial capability. Therefore, the action of the first respondent in awarding certain marks to the second respondent for furnishing his financial capability cannot be found fault with. It is common knowledge that without having any financial capability it is not possible to establish the Kisan Seva Kendra. In fact, after the publication of notification a specific format has been fixed.

Therefore, the first respondent considered all the applications pursuant to the notification, as no specific format was prescribed as on the date of notification. But the overall reading of the notification goes to show that the candidates applying to the open category are required to furnish their financial capability to establish the Kisan Seva Kendra. However, the non-publication of relevant application format as on the date of issuance of notification alone cannot be a ground for setting aside the selection of the second respondent.

Therefore, I do not see any merits in the writ petition to interfere with the impugned order issued pursuant to the impugned notification. The writ petition is accordingly dismissed.

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V. ESWARAIAH, J

January 2, 2006

DSK